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7 LIN R. ROGERS ELECTRICAL  
CONTRACTORS, INC.  
8

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11

12 LASHONDA SOLOMON, an individual,

13 Plaintiff,

14 v.

15 LIN R. ROGERS ELECTRICAL  
CONTRACTORS, INC., a Georgia  
16 corporation; and DOES 1 through 100,  
inclusive,

17 Defendants.  
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Case No. 2:22-cv-6866

**NOTICE OF REMOVAL TO  
FEDERAL COURT BY  
DEFENDANT LIN R. ROGERS  
ELECTRICAL CONTRACTORS,  
INC.**

Los Angeles Superior Court Complaint  
Filed: August 15, 2022

1 TO THE CLERK AND HONORABLE JUDGES OF THE UNITED STATES DISTRICT  
 2 COURT IN AND FOR THE CENTRAL DISTRICT OF CALIFORNIA, PLAINTIFF AND  
 3 HER ATTORNEYS OF RECORD:

4 PLEASE TAKE NOTICE that Defendant LIN R. ROGERS ELECTRICAL  
 5 CONTRACTORS, INC. ("Defendant") hereby removes the action of *LaShonda*  
 6 *Solomon v. Lin R. Rodgers Electrical Contractors, Inc., et al.*, pending before the  
 7 Superior Court of the State of California for the County of Los Angeles, Case No.  
 8 22STCV26342, to the United States District Court for the Central District of California.  
 9 This removal is based on 28 U.S.C. §§ 1332, 1441(a) and (b) due to complete diversity  
 10 of the parties' citizenship.

11 In support of this Notice of Removal, Defendant states the following:

## 12 I. STATEMENT OF JURISDICTION

13 1. This Court has original jurisdiction under 28 U.S.C. section 1332(a)(1),  
 14 and this case may be removed pursuant to the provisions of 28 U.S.C. section 1441(a),  
 15 1441 (b) and 1446 because it is a civil action wherein the amount in controversy exceeds  
 16 seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, and it is  
 17 between "citizens of different States." As set forth below, this case meets all of Section  
 18 1332's requirements for removal and is timely and properly removed by the filing of  
 19 this Notice.

## 20 II. VENUE

21 2. This action was filed in the Superior Court for the State of California,  
 22 County of Los Angeles. Venue properly lies in the United States District Court for the  
 23 Central District of California, pursuant to 28 U.S.C. sections 84(b), 1391, 1441, and  
 24 1446.

## 25 III. TIMELINESS OF REMOVAL

26 3. This Notice of Removal is timely filed pursuant to 28 U.S.C. section  
 27 1446(b), because Defendant has filed this notice within 30 days after receiving the  
 28 pleadings from which Defendant could first determine that this action was removable

1 and less than one year after commencement of this action as required under 28 U.S.C.  
 2 section 1446(c). Defendant was served the Complaint on August 23, 2022. *See* the  
 3 Declaration of William Travis Billingsley (“Billingsley Decl.”) ¶ 3.

#### 4 **IV. STATUS OF PLEADINGS, PROCESS AND ORDERS**

5 4. On or about August 15, 2022, Plaintiff LaShonda Solomon (“Plaintiff”)  
 6 filed a complaint (“Complaint”) in the Superior Court of California, County of Los  
 7 Angeles, which is captioned as follows: *LaShonda Solomon, an individual v. Lin R.*  
 8 *Rogers Electrical Contractors, Inc., a Georgia Corporation; and Does 1 to 100,*  
 9 *inclusive*, designated as Case No. 22STCV26342. *See* Declaration of Zeeshan Kabani  
 10 in Support of Notice to Federal Court of Removal of Civil Action from State Court  
 11 (“Kabani Decl.”) ¶ 2. A true and correct copy of the Summons and Complaint is  
 12 attached hereto as **Exhibit A** and incorporated herein by reference.

13 5. Plaintiff served Defendant with the Summons, Complaint and the Civil  
 14 Case Cover Sheet on August 23, 2022, through its registered agent for service of  
 15 process. A true and correct copy of the Civil Case Cover Sheet is attached hereto as  
 16 **Exhibit B**. A true and correct copy of the Proof of Service filed with the court is  
 17 attached hereto as **Exhibit C**. *See* Kabani Decl. ¶ 3. Pursuant to 28 U.S.C. section  
 18 1446(a), the documents attached hereto as Exhibits A, B and C constitute all process,  
 19 pleadings, and orders served upon Defendant and filed in this action. *See* Kabani Decl.  
 20 ¶ 4.

21 6. Plaintiff’s Complaint alleged thirteen causes of action for: (1)  
 22 Discrimination in Violation of the Fair Employment and Housing Act; (2) Retaliation  
 23 in Violation of the Fair Employment and Housing Act; (3) Wrongful Termination in  
 24 Violation of Public Policy; (4) Failure to Prevent Discrimination, harassment, and  
 25 Retaliation in Violation of the Fair Employment and Housing Act; (5) Disability  
 26 Discrimination – Failure to Engage in the Interactive Process in Violation of Fair  
 27 Employment and Housing Act; (6) Retaliation in Violation of Cal. Lab. Code §1102.5;  
 28 (7) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 1194, 1197); (8) Failure to

1 Compensate for All Hours Worked (Cal. Lab. Code § 1198); (9) Failure to Pay  
 2 Overtime Wages (Cal. Lab. Code §§ 510, 1194, 1198 et seq.); (10) Failure to Provide  
 3 Meal Periods (Cal. Lab. Code §§ 226.7, 512); (11) Failure to Provide Rest Periods (Cal.  
 4 Lab. Code § 226.7); (12) Failure to Provide Accurate Wage Statements (Cal. Lab. Code  
 5 § 226); and (13) Waiting Time Penalties.

6 7. Plaintiff seeks unpaid wages, special damages, actual damages, punitive  
 7 damages, restitution, declaratory relief, pre and post-judgment interest, statutory  
 8 penalties, civil penalties, liquidated damages, costs of suit, and attorneys' fees, among  
 9 other damages. *See* Exhibit A, Complaint, Prayer for Relief. Plaintiff's Complaint is  
 10 otherwise silent as to the value of relief sought by way of this action. *Id.*

11 8. On September 21, 2022, Defendant filed an Answer (General Denial and  
 12 Affirmative Defenses) to the Complaint in the Superior Court for the County of Los  
 13 Angeles. A conformed copy of Defendant's Answer is attached hereto as **Exhibit D**.  
 14 *See* Kabani Decl. ¶ 5.

## 15 **V. DIVERSITY OF CITIZENSHIP**

16 9. For diversity purposes, a person is a "citizen" of the state in which he or  
 17 she is domiciled. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir.  
 18 1983). Residence is *prima facie* evidence of domicile. *Murroquin v. Wells Fargo, LLC*,  
 19 2011 U.S. Dist. LEXIS 10510, at \*3-4 (S.D. Cal. 2011); *Smith v. Simmons*, 2008 U.S.  
 20 Dist. LEXIS 21162, \*22 (E.D. Cal. 2008) (place of residence provides "prima facie"  
 21 case of domicile); *see Lew v. Moss*, 797 F.2d 747, 751 (9th Cir. 1986) (allegations of  
 22 residency in a state court Complaint can create a rebuttable presumption of domicile  
 23 supporting diversity of citizenship); *see also State Farm Mut. Auto. Ins. Co. v. Dyer*, 19  
 24 F.3d 514, 519-20 (10th Cir. 1994) (allegation by party in state court Complaint of  
 25 residency "created a presumption of continuing residence in [state] and put the burden  
 26 of coming forward with contrary evidence on the party seeking to prove otherwise").

27 10. In this case, Plaintiff alleges that she resides in the County of Orange in  
 28 the state of California. *See* Exhibit A, Complaint, ¶ 2. Plaintiff also alleges that she

1 worked for Defendant in and around Los Angeles County. *See* Exhibit A, Complaint,  
2 ¶ 3-4. Accordingly, Plaintiff is a citizen of the State of California.

3 11. For diversity purposes, a corporation “shall be deemed a citizen of any  
4 State by which it has been incorporated and of the State where it has its principal place  
5 of business.” 28 U.S.C. § 1332(c)(1). As explained by the United States Supreme Court  
6 in *Hertz Corp. v. Friend*, 559 U.S. 77 (2010), “the phrase ‘principal place of business’  
7 in § 1332(c)(1) refers to the place where a corporation’s high level officers direct,  
8 control and coordinate the corporation’s activities, i.e., its ‘nerve center,’ which will  
9 typically be found at its corporate headquarters.” *Hertz Corp. v. Friend*, 559 U.S. at 78.

10 12. Defendant was, at the time the action was commenced in state court, and  
11 still is, a Georgia-based company whose principal place of business is Alpharetta,  
12 Georgia, and is therefore not a citizen of the State of California. *See* Billingsley Decl.,  
13 ¶ 5. Defendant’s corporate headquarters were, at the time of filing of the state court  
14 action, and remain, located in Alpharetta, Georgia, where its home office, main  
15 administrative office, and books and records are maintained. *See* Billingsley Decl., ¶ 5.  
16 It is also primarily where its corporate officers work, and where they direct, control and  
17 coordinate activities for Defendant. *Id.* Accordingly, Defendant is a citizen of the state  
18 of Georgia.

19 13. Defendant designated as Does 1 through 100 individuals that are fictitious  
20 defendants, are not parties to this action, have not been named or served, and are to be  
21 disregarded for the purpose of this removal. 28 U.S.C. § 1441(b). Pursuant to Section  
22 1441, the citizenship of defendants sued under fictitious names should be disregarded  
23 for the purpose of determining diversity jurisdiction and only the domicile of the named  
24 defendants should be considered. *Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690-91  
25 (9th Cir. 1998).

26 14. Given that Plaintiff is a citizen of California; and that Defendant is a citizen  
27 of Georgia, diversity of citizenship exists.

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## VI. AMOUNT IN CONTROVERSY EXCEEDS \$75,000

15. This suit is a civil action for unpaid wages, special damages, actual damages, punitive damages, restitution, declaratory relief, pre and post-judgment interest, statutory penalties, civil penalties, liquidated damages, costs of suit, and attorneys' fees, among other damages in which Plaintiff alleges violations of the Fair Employment and Housing Act ("FEHA") consisting of disability discrimination, disability harassment, violation of the California Family Rights Act, failure to accommodate, failure to engage in the interactive process, failure to prevent discrimination and harassment, retaliation, and wrongful termination.

16. Furthermore, Plaintiff also alleges that Defendant failed to pay her full wages (including minimum wages, overtime wages, and for all hours worked), failed to provide meal breaks, failed to provide rest breaks, failed to provide accurate wage statements, and alleges that there should be waiting time penalties.

17. Plaintiff's Complaint does not expressly state the amount being sought by Plaintiff. Where removal is based on diversity of citizenship and the initial pleading seeks a money judgment but does not demand a specific sum, "the notice of removal may assert the amount in controversy," 28 U.S.C. § 1446(c)(2), and a removing defendant "need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014); *see also Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996) (explaining that removing defendant need only show by a preponderance of the evidence (that it is more probable than not) that plaintiff's claimed damages exceed the jurisdictional minimum). Here, based on the nature of Plaintiff's claims, the allegations in her Complaint, and Plaintiff's earnings at the time of her termination, the amount at issue is in excess of \$75,000, as follows.

18. In measuring the amount in controversy, the Court must assume that the well-pleaded allegations of the complaint are true and that a jury will return a verdict in favor of the plaintiff on all claims asserted in his complaint. *Kenneth Rothschild Trust*

1 *v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001 (C.D. Cal. 2002). The  
 2 ultimate inquiry is the amount that is placed “in controversy” by the plaintiff’s  
 3 complaint, and not how much, if anything, the defendant will actually owe. *Rippee v.*  
 4 *Boston Market Corp.*, 408 F. Supp. 2d 982, 986 (S.D. Cal. 2005). In determining the  
 5 amount in controversy, the Court may consider damages awards in similar cases.  
 6 *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005).

7 **A. Lost Earnings, General Damages, and Emotional Distress**

8 19. The amount in controversy includes claims for general damages, exclusive  
 9 of costs and interest. *See Ajimatanrareje v. Metropolitan Life Ins. Co.*, 1999 U.S. Dist.  
 10 LEXIS 7339 at 4 (N.D. Cal. 1999) (general and special damages may be part of the  
 11 amount in controversy calculation, and emotional distress damages “may be considered  
 12 in the amount in controversy even when not clearly pled in the complaint.”); *see also*  
 13 *Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029, 1034 (N.D. Cal. 2002).

14 20. Here, in addition to claiming lost and future earnings and benefits, Plaintiff  
 15 seeks general damages, including damages for emotional distress, as well as punitive  
 16 and exemplary damages. *See* Exhibit A, Complaint, at ¶¶ 27-32, 40-45, 53-57, 65-70,  
 17 79-80, 89-94, 98-99, 101-105, 111, 116-118, 123-125, 132-134, 141-143, Prayer for  
 18 Relief.

19 21. Should Plaintiff prevail on her claims, she could also potentially recover  
 20 lost wages and benefits. Before the separation of her employment from Defendant on  
 21 October 28, 2021, Plaintiff earned \$28 per hour at the time of her termination. *See*  
 22 Billingsley Decl. ¶ 8. Since Plaintiff’s termination, there has been approximately 225  
 23 workdays to the day this removal was filed, September 22, 2022. Assuming Plaintiff  
 24 maintained her average work hours per day, eight, for those 225 days, Plaintiff could  
 25 potentially recover **\$50,400** (approximately \$28/hour x 8 hours/day x 225 workdays).  
 26 *Id.* at ¶8, 11. If Plaintiff remains unemployed through trial, which would likely be  
 27 completed no sooner than one year from today, the amount in controversy as to lost  
 28 wages would be total at least 473 workdays, or roughly **\$105,952.00**. *See James v.*



1 *Childtime Childcare, Inc.*, No. S-06-2676, 2007 WL 1589543, \*2 n.1 (E.D. Cal., June  
2 1, 2007) (“The court evaluates the amount in controversy at the time of removal, but it  
3 may consider both past and future lost wages.”)

4 22. In addition, front pay awards in California frequently span a number of  
5 years. *See Rabaga-Alvarez v. Dart Indus., Inc.*, 55 Cal. App. 3d 91, 97 (1976) (four  
6 years); *Drzewiecki v. H&R Block, Inc.*, 24 Cal. App. 3d 695, 705 (1972) (ten years).  
7 Even conservatively estimating that Plaintiff seeks front pay benefits for only the two  
8 years after a final disposition, the amount of future wages in controversy in this case  
9 would total at least an additional **\$111,328.00**.

10 23. With respect to emotional distress damages, claims for emotional distress  
11 damages in a successful employment discrimination case may be substantial. *Simmons*  
12 *v. PCR Tech.*, 209 F. Supp. 2d 1029, 1034 (N.D. Cal. 2002); *see also Velez v. Roche*,  
13 335 F. Supp. 2d 1022, 1038-40 (N.D. Cal. 2004) (surveying discrimination and  
14 harassment cases awarding emotional distress damages and concluding that “substantial  
15 jury awards of hundreds of thousands of dollars for non-economic damages have been  
16 upheld where there is evidence . . . that the plaintiff suffered heightened mental  
17 anguish”).

18 24. Furthermore, at the time of Plaintiff’s termination, Plaintiff had accrued  
19 \$13,405.70 in overtime wages for the 2021 year. *See Billingsley Decl.* ¶ 12. If Plaintiff  
20 earned \$13,405.70 in approximately 11 months in 2021, given that it has been  
21 approximately 11 months since Plaintiff’s termination, it is reasonable to assume the  
22 amount of overtime wages in controversy in this case would total at least an additional  
23 **\$13,405.70**.

24 25. To determine the potential damages for the timely payment of wages  
25 claim, applying Plaintiff’s alleged \$100 penalty per pay period, one would multiply the  
26 number of workweeks by the alleged \$100 amount. Based on Defendant’s business  
27 records, the amount placed in controversy is **\$9,300.00** for the wages claim. *See*  
28 *Billingsley Decl.* ¶ 13.



26. To determine the potential damages on the meal periods claim, assuming Plaintiff missed an average of three meal periods per workweek between February 14, 2017, to October 28, 2021, for those workweeks in which she was employed, one would multiply the number of workweeks by Plaintiff's hourly rate for this period of time. Based on Defendant's business records, the amount placed in controversy is **\$2,604.00** for the meal period claim. *See Billingsley Decl.* ¶ 14.

27. To determine the potential damages on the rest break claim, assuming Plaintiff missed three rest breaks per workweek between February 14, 2017, to October 28, 2021, for those workweeks in which she were employed, one would multiply the number of workweeks by the employee's hourly rate for this period of time. Based on Defendant's business records, the amount placed in controversy is **\$2,604.00** for the rest break claim. *See Billingsley Decl.* ¶ 15.

28. To determine the potential damages on the recovery break claim, assuming Plaintiff missed three recovery breaks per workweek between February 14, 2017, to October 28, 2021, for those workweeks in which they were employed, one would multiply the number of workweeks by the employee's hourly rate for this period of time. Based on Defendant's business records, the amount placed in controversy is **\$2,604.00** for the recovery break claim. *See Billingsley Decl.* ¶ 16.

29. Based on Defendant's records and estimating 52 pay periods placed in controversy during the one-year period for the wage statement allegations, and assuming Plaintiff's alleged penalty in the amount of \$250, there is \$13,000.00 placed in controversy on the wage statement claim. The maximum, by statute, that can be put in controversy for this wage claim is \$4,000. Thus, the amount placed in controversy is **\$4,000** for the wage statement claim. *See Billingsley Decl.* ¶ 17

### **B. Punitive Damages**

30. Plaintiff's Complaint also seeks punitive damages. *See Exhibit A, Complaint at Prayer* ¶ 3. With respect to punitive damages, California law does not provide any specific monetary limit on the amount of punitive damages which may be

1 awarded under Civil Code § 3294, and the proper amount of punitive damages under  
 2 California law is based on the reprehensibility of the defendant's misdeeds, the ratio  
 3 between compensatory and punitive damages, and ratio between damages and the  
 4 defendant's net worth. *Boyle v. Lorimar Productions, Inc.*, 13 F.3d 1357 (9th Cir.  
 5 1994). Punitive damages are included in calculating the amount in controversy.  
 6 *Davenport v. Mutual Ben. Health & Acc. Ass'n*, 325 F. 2d 785, 787 (9th Cir. 1963);  
 7 *Aucina v. Amoco Oil Co.*, 871 F. Supp. 332 (S.D. Iowa 1994). Awards of four times  
 8 the amount of compensatory damages have been found to comport with due process  
 9 and, absent other factors, are otherwise affirmed. *State Farm Mut. Auto. Ins. Co. v.*  
 10 *Campbell*, 538 U.S. 408, 424-25 (2003). In *Aucina*, the defendant-employer established  
 11 that the amount in controversy exceeded the jurisdictional minimum where the former  
 12 employee asserted claims for lost wages, lost benefits, mental anguish, and punitive  
 13 damages. The court noted that defendant was a Fortune 500 Company, and that  
 14 "[b]ecause the purpose of punitive damages is to capture a defendant's attention and  
 15 deter others from similar conduct" the plaintiff's claim for punitive damages "alone  
 16 might" exceed the jurisdictional minimum. *Aucina*, 871 F. Supp. at 334.

17 31. Although Defendant denies Plaintiff's allegations, if Plaintiff were to  
 18 prevail on one of her claims and establish the requisite state of mind, the punitive  
 19 damages alone could exceed the jurisdictional minimum.

### 20 C. Attorneys' Fees

21 32. Plaintiff's Complaint also seeks attorneys' fees. *See* Exhibit A, Complaint  
 22 at Prayer ¶ 10. Recoverable attorneys' fees also are included in the amount in  
 23 controversy calculation. *See Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155 (9th  
 24 Cir. 1998) (prayer for attorneys' fees included in determining the amount in controversy  
 25 where potentially recoverable by statute); *Brady v. Mercedes-Benz USA, Inc.*, 243 F.  
 26 Supp. 2d 1004, 1010 (N.D. Cal. 2002) (court may estimate the amount of reasonable  
 27 attorneys' fees likely to be recovered by a plaintiff if she were to prevail in determining  
 28 whether amount in controversy exceeds \$75,000). In actions brought under FEHA (as

is the case here), the court may award to the prevailing party reasonable attorneys' fees. CAL. GOV'T CODE § 12965 (b). In 2001, the California Supreme Court upheld an award of attorneys' fees under FEHA for \$1,088,231. *See Flannery v. Prentice*, 26 Cal. 4th 572 (2001); *see also Dwyer v. Crocker Nat'l Bank*, 194 Cal. App. 3d 1418 (1987) (\$75,258 in attorneys' fees awarded under FEHA); *Zissu v. Bear, Stearns & Co.*, 805 F.2d 75 (1986) (\$555,000 in attorneys' fees awarded under FEHA); *Muniz v. United Parcel Serv., Inc.*, 738 F.3d 214, 227 (9th Cir. 2013) (\$697,971.80 in attorneys' fees awarded on a \$27,280.00 FEHA claim).

#### **D. Verdicts in California Employment Discrimination Cases**

33. Jury verdicts in various discrimination cases in California reflect that if Plaintiff were to prevail at trial, his damages could be in excess of the \$75,000 threshold. For example, in the matter of *Dedekian v. Central Unified School District*, 03-CE-CG-02424, in the Fresno Superior Court, on February 16, 2006, a jury awarded the plaintiff \$112,289 in a case involving allegations of discrimination under the FEHA. *See Kabani Decl. ¶ 6, Exhibit E*. In the matter of *Miller v. Lockheed Martin Corp.*, WL 3731646 (2005), in the Los Angeles Superior Court, on October 12, 2005, a jury awarded the plaintiff \$1,033,000 in a case involving allegations of discrimination/wrongful termination under the FEHA. *Kabani Decl. ¶ 7, Exhibit F*.

34. Based upon the foregoing, the amount in controversy in this matter appears to well exceed the jurisdictional minimum of \$75,000.

35. For these reasons, this action is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and which may be removed to this Court by State Farm pursuant to 28 U.S.C. § 1441 based on diversity jurisdiction.

#### **VII. NOTICE TO COURT AND PARTIES**

36. Concurrent with the filing of this Notice of Removal in the United States District Court for the Central District of California, written notice of the removal will be given by the undersigned to counsel for Plaintiff, and Notice of Removal filed with the Clerk of the Superior Court for the State of California for the County of Los Angeles.

1           37. WHEREFORE, Defendant prays that this civil action be and is removed  
2 from the Superior Court of the State of California, County of Los Angeles, to the United  
3 States District Court, Central District of California.

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6 Dated: September 22, 2022

LITTLER MENDELSON, P.C.

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Keith A. Jacoby  
Zeeshan Kabani

11 Attorneys for Defendant  
12 LIN R. ROGERS ELECTRICAL  
CONTRACTORS, INC.

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